

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CATHY M. RHOADES,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

CASE NO. C10-5184RJB

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of Magistrate Judge J. Richard Creatura. Dkt. 19. No objections to the Report and Recommendation were filed. The Court has considered the Report and Recommendation and the remaining file herein.

On March 22, 2010, Plaintiff Cathy M. Rhoades filed a complaint, requesting that the final decision of an Administrative Law Judge (ALJ) denying Plaintiff's disability benefits be reviewed, reversed, and set aside. Dkt. 3. On October 5, 2010, Magistrate Judge Creatura issued a Report and Recommendation recommending that this matter be remanded to the Social Security Administration for further review. Dkt. 19. Magistrate Judge Creatura found that the ALJ erred by failing to include consideration of Plaintiff's depression, particularly when the ALJ failed to consider whether or not Plaintiff's depression is a severe impairment at step-two of the

1 administrative process and when the ALJ considered the medical opinion of Plaintiff's treating
2 physician, Dr. Cooke. *Id.*

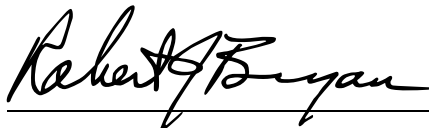
3 The Court agrees with the well-reasoned recommendation of the Magistrate Judge. The
4 ALJ's findings that the record contained no evidence that Plaintiff was ever diagnosed with
5 depression are not supported by substantial evidence, particularly when the record includes
6 specific information to the contrary. *See* Dkt. 19, at 6. Additionally, the Court agrees with the
7 Magistrate Judge that the ALJ did not carefully review the medical record or provide sufficient
8 reasoning to properly discount the opinion and records of Dr. Cooke. Dkt. 19, at 7.

9 Accordingly, this matter should be remanded to the Administration for further review.

10 Therefore, the Court does hereby **ORDER** that:

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- 12 (1) The Court **ADOPTS** the Report and Recommendation (Dkt. 19);
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- 14 (2) The matter is **REMANDED** to the administration for further consideration; and
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- 16 (3) The Clerk is directed to send copies of this Order to counsel of record.

DATED this 29th day of October, 2010.

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19 ROBERT J. BRYAN
20 United States District Judge
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